

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SAFECO INSURANCE COMPANY OF  
AMERICA,

Plaintiff,

V.

SIGURD J. HANSEN and MELISSA  
ECKSTROM.

## Defendants.

NO. C19-1772RSL

**ORDER CONTINUING PENDING  
MOTIONS FOR SUMMARY  
JUDGMENT (Dkt. # 7 and # 19)**

This matter comes before the Court on “Defendant Hansen’s Motion for Relief From Deadlines Relating to Defendant Eckstrom’s Motion for Summary Judgment.” Dkt. # 22. Hansen seeks to continue Eckstrom’s motion for summary judgment on a number of grounds, including that Hansen has filed a motion to stay this insurance coverage case until the underlying state court action is resolved. Plaintiff Safeco Insurance Company of America filed its own motion for summary judgment (Dkt. # 19), and the Court *sua sponte* considers whether it, too, should be continued.

In May 2016, defendant Eckstrom filed a complaint in King County Superior Court in which she alleges that defendant Hansen, her father, sexually abused her as a child. Hansen tendered the complaint to Safeco in May 2019, seeking a defense and indemnification under

ORDER CONTINUING PENDING  
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1 insurance policies issued to Hansen and/or his parents from 1990 to 2006. Safeco agreed to  
2 provide a defense in the underlying action, but reserved its rights to dispute coverage. Safeco  
3 filed this lawsuit on October 31, 2019, seeking a declaration of no coverage based on the  
4 intentional nature of the acts alleged in the underlying complaint.  
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6 Hansen filed a motion to stay, arguing that the declaratory judgment action should not be  
7 allowed to go forward because further prosecution of the action would – or could – (1) violate  
8 the duty of good faith Safeco owes to its insured and (2) prejudice the insured’s interests by  
9 forcing him to take positions in this lawsuit that could harm his position in the underlying  
10 action.<sup>1</sup> An insurer defending an insured under a reservation of rights has “an enhanced  
11 obligation of fairness toward its insured” in light of the “[p]otential conflicts between the  
12 interests of the insurer and insured . . . .” Tank v. State Farm Fire & Cas. Co., 105 Wn.2d 381,  
13 383 (1986). Although an insurer is generally permitted to seek a declaration that it has no duty to  
14 defend, “it must avoid seeking adjudication of factual matters disputed in the underlying  
15 litigation because advocating a position adverse to its insured’s interests would ‘constitute bad  
16 faith on its part.’” Mut. of Enumclaw Ins. Co. v. Dan Paulson Constr., Inc., 161 Wn.2d 903, 914-  
17 15 (2007) (quoting 1 Allan D. Windt, *Insurance Claims & Disputes: Representation of Insurance*  
18 Companies and Insureds § 8.3 (5th ed. 2007)). See also Tank, 105 Wn.2d at 388 (noting that  
19 good faith under a reservation of rights requires the insurer to “refrain from engaging in any  
20 action which would demonstrate a greater concern for the insurer’s monetary interests than for  
21 the insured’s financial risk”).  
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23 The Court has not analyzed the motion to stay or the related papers: it therefore offers no  
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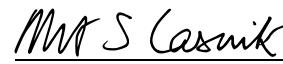
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26 <sup>1</sup> Hansen argues that there are two underlying actions, both of which were filed by Eckstrom.  
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1 view as to the merits of that motion. Nevertheless, given the interests at stake, the Court finds  
2 that the motion to stay should be resolved before Hansen is required to respond to the pending  
3 motions for summary judgment. If this action may be pursued consistent with the insurer's  
4 obligation of fairness to the insured, the declaratory judgment action will proceed, and the  
5 pending dispositive motions will be renoted . If, however, pursuing a declaration of no coverage  
6 will prejudice Hansen in the underlying action, a stay may be appropriate in order to avoid a  
7 situation in which the insurer is seeking the adjudication of factual matters that are adverse to its  
8 insured in the underlying action.

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11 For all of the foregoing reasons, Hansen's motion to continue Eckstrom's pending motion  
12 for summary judgment (Dkt. # 22) is GRANTED. The Court *sua sponte* continues Safeco's  
13 pending motion for partial summary judgment (Dkt. # 19). Hansen need not respond to those  
14 motions until the Court resolves his motion to stay and, if appropriate, renotes the dispositive  
15 motions.

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17 Dated this 19th day of December, 2019.

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20 Robert S. Lasnik  
21 United States District Judge  
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ORDER CONTINUING PENDING  
MOTIONS FOR SUMMARY JUDGMENT - 3